

Remarks

I. Status of Claims

Claims 16, 20, 24 and 62 are pending in the present application and have been examined.

Claims 16, 20, 24 and 62 stand rejected under 35 U.S.C. §102(e) as anticipated by published U.S. Patent Application US 2002/0102677 by Jegla ("the Jegla publication").

II. Response to the Rejection of Claims 16, 20, 24 and 62 Under 35 U.S.C. §102(e)

The Patent Office rejected claims 16, 20, 24 and 62 under 35 U.S.C. §102(e) as anticipated by the Jegla publication. The Patent Office argues "the nucleic acid of Jegla et al. is 100% identical to the nucleic acid of SEQ ID NO:2 claimed in the instant application." Office Action, page 2. The Patent Office also characterizes the Jegla publication as teaching "cloning of the KCNQ5 nucleic acid into vectors and transfection of the vector into host cells." Office Action, page 2.

Applicants submit herewith a Declaration pursuant to 37 CFR §1.131 signed by the inventors documenting invention of the claimed invention in the United States prior to the priority date of the Jegla reference. In view of the Declaration, applicants respectfully request that the rejection of claims 16, 20, 24 and 62 be withdrawn and the claims allowed.

III. Conclusions

In light of the Declaration attached hereto and the remarks presented above, applicants respectfully submit that the subject patent application is now in condition for allowance and courteously solicit a Notice of Allowance.


If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Amendments and Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

Although it is believed no fee is due in conjunction with the present Response, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment associated with the filing of this correspondence to Deposit Account Number 19-3880 in the name of Bristol-Myers Squibb Company. Furthermore, if any extension of time is required, such extension is hereby

petitioned for, and it is requested that any fee due for said extension be charged to Deposit Account Number 19-3880.

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
609-252-3575



John A. Lamerdin, Ph.D.
Attorney for Applicants
Reg. No. 44,858

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